

JOHN HEARNE

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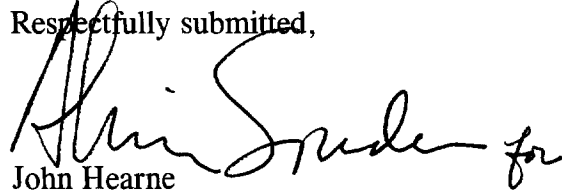
FCOM - 97-0000

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, D.C. 20054

Dear Mr. Caton,

On Monday, Point Enterprises, Inc. filed a faxed version, with the required number of copies, of its Comments in WT Docket No. 97-82, opposing the requests of Broadband PCS auction winners for debt forgiveness. Accompanying this letter is the "hard copy" original of the Comments and a second set of the required number of copies, so that the Commission may have the quality of the original for its files in place of the faxed version.

Respectfully submitted,

  
John Hearne

Before the  
Federal Communications Commission  
Washington D.C.

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FCOM 97-82

In the Matter of

**Broadband PCS C and F Block  
Installment Payment Issues**

**WT Docket 97-82**

To: Wireless Telecommunications Bureau

**Comments by Point Enterprises Opposing Requests for Debt Forgiveness**

Point Enterprises, Inc. opposes the various requests by MCI, General Wireless and others to restructure the debt owed by C Block winners NextWave, Pocket, AerForce, General Wireless, PCS 2000 and others. By proposing interest and principal deferrals, these companies are requesting a nearly fifty percent reduction in the value of their debt to the government -- a multibillion dollar loss to the United States.

Who would be the prime beneficiaries of such an incredible giveaway? Not small business. The prime backers of Next Wave, General Wireless and other large C Block bidders are companies such as Westinghouse, Sony, Qualcomm, major Korean trading companies, MCI and billionaires such as Mario Gabelli. These companies are among the largest and most profitable corporations in the world. There is no reason for the federal government to hand over billions of dollars in debt forgiveness to companies and individuals as well off as these.

The C Block was supposedly established to provide an opportunity for small business. That was the reason for the installment purchase provisions in the first place. But, the

implementation never lived up to the promise. Through flaccid "control group" rules and the "leveling up" of the minority eligibility rules in the wake of the Adarand decision, the Commission let the C Block auction become dominated by a few companies who were backed by huge trading companies and multinational telecommunications concerns -- among the very largest in the world.

These companies intentionally bid up the auction prices in the C Block to drive out the many small business participants who had hoped to provide new and innovative competition. An affiliate of our company, New Wave LLC, was driven out of the auction because the prices bid by the likes of NextWave were beyond anything a truly entrepreneurial company could support. The other drop outs of the C Block auction, like U.S. Airways and Go Communications, read like a Whos Who of successful and capable telecommunications executives and companies. People who understood this business, and who could make a go of it, were simply driven out by the few dominant bidders who secured backing from the multinationals and ignored the business realities of the wireless marketplace.

Specifically, over \$7.3 Billion in winning bids were submitted by just four companies -- NextWave, DCR, GWI and BDPCS. Of the 52 BTA markets in the U.S. with populations of one million persons or more, 40 of these markets were won by these same four companies. Very few, if any, of the winning bidders were from disadvantaged minority groups. Because of this domination by a few multinational backed bidders, there was no meaningful opportunity for minorities and legitimate small business in the C Block.

Now these same bidders are coming to the Commission, hat (and cup) in hand, saying they cannot afford to pay what they bid, and asking to be taken off the hook. The Commission's quick answer should be "No". If they can't make it, and if their multinational backers have suddenly gotten cold feet, the Commission should stick to its current default rules, let the licenses cancel upon default, and reauction them.

If we had realized that our C Block affiliate could bid \$50 per pop and have the net present value cut to \$25 per pop a year later, we would not have dropped out of the C Block auction at the price we did, nor would have other experienced telecommunications players like U.S. Airways or Go Communications. Restructuring the C Block debts now in any way which reduces their net present value (in principal and interest) to the United States would be a denial of Due Process, Equal Protection and Constitutional Fundamental Fairness to the many legitimate bidders who were pushed out of the auction by the privileged few multinationals who gambled that the Commission would never enforce its debts.

The Commission is under an obligation in Section 309(j) of the Communications Act to provide a meaningful opportunity for small business. By reauctioning defaulted C Block licenses, small businesses such as ours would be provided that opportunity once more. So would Minority and Women owned businesses. And that was the purpose of the installment payment plan in the first place.

There is no merit to the contention that system build outs and the development of C Block competition would be slowed by reauctioning rather than restructuring. The lion's share of the PCS market for the C Block (in dollar volume) will come from the churn of subscribers away from cellular, SMR and other PCS systems. That market is not time

sensitive. In fact, the market will get larger as the A and B Block PCS carriers are built out and more of their customers become dissatisfied. So a delay, even if it is as long as contended (which is highly suspect), will not preclude competition arising from the C Block.

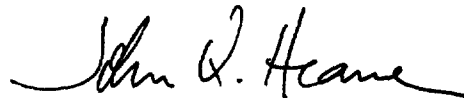
The parade of horrors that the winning C Block bidders are describing will not happen. Furthermore, it would be no national tragedy if any of the winning C Block bidders failed. On reaction, a more competent company would acquire the license. Business failures are a fact of life in the economy. They create opportunities for other companies. The C Block systems will be built, perhaps even more rapidly, following reactions.

It is also far too early to conclude that the C Block winners will, in fact, fail. The Commission should call their bluff. No individual waiver would be appropriate before a bankruptcy was declared. The most likely outcome is that many of the distressed winners will be bailed out by their multinational backers. The federal government should not be easily persuaded to provide a multibillion dollar giveaway in this age of budget austerity.

The Commission should enforce its rules as they now stand and not waive them to reduce the net present value of principal and interest on the C Block debts.

Respectfully submitted,

**POINT ENTERPRISES, INC.**

A handwritten signature in black ink, appearing to read "John Q. Hearne", written in a cursive style.

John Q. Hearne, Chairman

John Q. Hearne  
100 Wilshire Boulevard, Suite 1000  
Santa Monica, California 90401  
(310) 451-4430